

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR RULE AMENDMENTS**

AGENDA # II.A.1.

AGENDA ITEM SUMMARY - The Board published a Notice of Proposed Amendments to the public water supply rules on April 10, 2003, to:

1. Adopt new EPA primacy rules and revisions of existing primacy rules regarding the regulation of public water supplies;
2. Amend existing language regarding illegal construction of public water and sewage systems to be consistent with statutory language that was amended by the 1999 Legislature;
3. Adopt Department Circular PWS-5 "Groundwater Under the Direct Influence of Surface Water";
4. Amend existing rules for disinfection of contaminated groundwater sources to allow the use of disinfectants other than chlorine;
5. Amend existing rules to allow the department to assess administrative penalties for failure to comply with the operator certification requirements in 37-42-101 through 322, MCA.

LIST OF AFFECTED RULES - ARM 17.38.101 through 17.38.302

AFFECTED PARTIES SUMMARY – Owners of community and nontransient noncommunity public water systems. Examples of these systems include cities, towns, water and sewer districts, subdivisions, mobile home parks, businesses and schools. Also, owners of public sewage systems will be affected. Examples include primarily cities, towns, water and sewer districts, large subdivisions and Hutterite Colonies.

SCOPE OF PROPOSED PROCEEDING - The Board is considering final action on adoption of amendments to the above-referenced rules as proposed in the Montana Administrative Register.

BACKGROUND – EPA requires that states with primacy for the Safe Drinking Water Act adopt all rules and rule revisions regarding the regulation of public water supplies. Rules proposed for adoption include EPA's "Arsenic Rule", the "Radionuclides Rule", the "Filter Backwash Rule" and revisions to the existing "Lead and Copper Rule" and the existing "Public Notification Rule". The other revisions are needed to provide consistency and clarity in implementation and enforcement of existing rules with existing statutory requirements.

HEARING INFORMATION – Kelly O'Sullivan conducted a public hearing on April 30, 2003, on the proposed amendments. Public comments received and the Board's proposed responses are included,

along with the Presiding Officer Report and the draft Notice of Amendment attached to this executive summary.

BOARD OPTIONS - The Board may:

1. Adopt the proposed amendments as set forth in the attached Notice of Public Hearing on Proposed Amendment;
2. Adopt the proposed amendments with revisions that the Board finds are appropriate and that are consistent with the scope of the Notice of Public Hearing on Proposed Amendment and the record in this proceeding; or
3. Decide not to adopt the amendments.

DEQ RECOMMENDATION - The Department recommends that the Board adopt the proposed amendments, with the revisions shown in the attached draft Notice of Amendment.

ENCLOSURES - The following information is attached to this summary:

- 1) Notice of Public Hearing on Proposed Amendment;
- 2) Hearing Examiner's Report; and
- 3) Draft Notice of Amendment.